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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Patent of Olivier Lohse et al.	:	DECISION ON REQUEST
Patent No. 7,605,267	:	FOR RECONSIDERATION OF
Issue Date: October 20, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/550,621	:	AND NOTICE OF INTENT TO
35 U.S.C. § 371 Date: November 3, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. PAT033150-US-PCT	:	CORRECTION

This is a decision on the petition filed December 18, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by nine hundred thirty-three (933) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by nine hundred thirty-three (933) days is **GRANTED to the extent indicated herein.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Patentees assert the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 393 days.

In this case, the period of B Delay began on the day after the date three years after "the actual filing date of the application in the United States."¹ In the case of an international application, the "actual filing date of the application in the United States" is the date the national stage commenced under 35 U.S.C. 371(b) or (f).²

¹ See 35 U.S.C. § 154(b)(1)(B). The office notes the instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

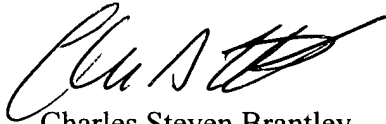
² See Manual of Patent Examining Procedure ("MPEP") § 2730 (8th ed., Rev. 4, Oct. 2005) (citing *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

The date of commencement for the instant application is October 3, 2005. The number of days beginning on October 4, 2008, the day after the date three years after the date of commencement, and ending on October 20, 2009, the date of issuance, is 382 days. In other words, B Delay is 382 days, not 393 days, and patent term adjustment is 922 days, not 933 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **nine hundred twenty-two (922)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO. : 7,605,267 B2
APPLICATION NO. : 10/550,621
DATED : October 20, 2009
INVENTOR(S) : Olivier Lohse et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 540 days.

Delete the phrase "by 540 days" and insert -- by 922 days--